

REMARKS

Claims 1 and 3-12 have been rejected as reciting subject matter obvious over certain teachings contained in the Wong patent in view of further teachings contained in each of the Altus and Elliott patents. In support of this rejection, the Examiner contends that the structure taught in the Wong patent could be used on a step and riser but fails to disclose male and female snap locks in conjunction with hook and loop fasteners. The Altus patent is presented for the purpose of teaching the use of snap fasteners for securing a mat. The Examiner further contends that terms such as “attachable to”, “for securing”, “adapted for”, and “for attachment to” are not positively claimed limitations. Such interpretation is not in accordance with the law of claim construction. That is, the word -configurable- or -configured- recites structure that must be necessary to perform a certain function or purpose; these words can, and often are, used interchangeably with the quoted phrases. Thus, the quoted phrases do recite certain structure which must be capable of performing the conjoined function. Another way of considering this issue is that of a recited element that might meet the nomenclature of certain structure but be unsuitable for or unusable with the remaining elements recited in a claim with the result that the totality of elements would not function as the invention intends. Accordingly, one must come to the inescapable conclusion that the quoted phrases do in fact require certain structure necessary in order for the element to perform the recited function. Thus, they must be given weight with respect to whether the applied prior art teaches

such structure and therefore allowability of a claim.

The floor mat in the Wong patent is intended for detachable attachment to an underlying carpet. In order to obtain attachment, a clip 24 is engaged with the carpet. The clip includes a round portion 26 to which is attached a hook type fastener 36. This hook type fastener is ultimately engageable by a loop type fastener 38 secured to the underside of mat 10. Accordingly, it becomes self evident that mat 10 cannot be attached to a planar surface, such as a step or riser, since clip 24 cannot be penetrably engaged with the step or riser, as taught in Wong. One must therefore come to the inescapable conclusion that the teachings of Wong do, at best, teach apparatus for securing a mat to an underlying carpet. There is no teaching nor suggestion for attaching a mat to a planar surface, such as a step or riser.

The preamble of Claim 1 has been amended to more particularly recite and distinctly claim the invention. In particular, the phrase “and in direct contact with” has been added to emphasize that the rug is attached directly to a step and a riser. Additionally, paragraphs d) and e) recite direct attachment to the step and to the riser. None of these features/capabilities are taught in nor suggested by any teachings contained in the Wong patent.

The Altus patent teaches the use of snaps for attaching a carpet to an underlying element which, in turn, is in frictional engagement with an underlying

carpet through prongs 32. Again, the Altus patent does not teach the attachment of a carpet to a planar surface. As set forth in paragraphs h) and i) of Claim 1, the recited snap locks are configured to be directly attachable to the underlying step and riser. Such teaching is missing from the Altus patent and the Altus patent is related solely to the type of structural environment disclosed in the Wong patent. Accordingly, the snap locks recited in Claim 1 and their configuration could not be derived in the sense of 35 USC § 103 from any teachings contained in the Altus patent.

The Elliott patent does teach the use of a snap lock fitting wherein one part is attached to a planar surface and another part to an overlying carpet. However, it would be impossible to incorporate such structure in the apparatus taught in Wong. That is, in order to incorporate the Elliott snap lock mechanism in the Wong device, the Wong device would no longer be capable of functioning in the manner taught and intended. Thus, the Elliott teachings offer no bridge to satisfy the obligation necessary to come to a conclusion of obviousness. Since the teachings in the Elliott patent do not and cannot contribute to the alleged combination over which the rejected claims are alleged to be obvious, and as the Elliott teachings are stated by the Examiner to be necessary to support a rejection of obviousness, the rejection must fail.

For any and all of the above reasons, it is respectfully requested that the remaining ones of rejected Claims 1, and 3-12 be withdrawn.

The Examiner has indicated that Claims 13 and 15-20 would be allowable if rewritten to incorporate the subject matter of the claims from which they depend. It is pointed out that Claim 13 is, in fact, an independent claim. Moreover, as Claim 13 has not been rejected, allowance is respectfully requested. The remaining ones of Claims 15-20 have been amended to correct recitations of dependency. These claims now depend directly from Claim 13 and allowance is respectfully requested.

It is appreciated that this is a response after final and that the Examiner has significant discretion in deciding whether to enter or not enter the Response. As no new issues are raised and as no further searching is required, entry of this Response is requested. It is also appreciated that if the Response is entered, the Examiner has great discretion in determining whether he will give consideration to the amendments to the rejected claims presented and the accompanying arguments. As it is clearly evident that the rejected claims recite subject matter not obvious over the applied prior art and are in fact allowable and as the remaining claims are also allowable, it is urged that the final rejection be withdrawn and that the application be passed to issue.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'C. Robert von Hellens', written in a cursive style.

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